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7 *Of Counsel:*
8 Bart M. Davis
U.S. Attorney, District of Idaho

9 Attorneys for the United States

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE DISTRICT OF IDAHO

12
13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 JOSEPH J. BONOCORE and
17 PHYLLIS A. BONOCORE,

18 Defendants.

Case No. 19-cv-0054

COMPLAINT

19
20 The United States complains and alleges as follows:

- 21 1. This is a civil action brought by the United States of America to reduce to
22 judgment the outstanding federal tax liabilities and civil penalties assessed
23 against Joseph J. Bonocore and Phyllis A. Bonocore.

JURISDICTION AND VENUE

2. This action is brought at the direction of the Attorney General of the United States and at the request and with the authorization of the Chief Counsel of the Internal Revenue Service (“IRS”), a delegate of the Secretary of the Treasury, pursuant to 26 U.S.C. § 7401.
3. The Court has jurisdiction over this action pursuant to 26 U.S.C. § 7402 and 28 U.S.C. §§ 1340 and 1345.
4. Venue is proper in the District of Idaho under 26 U.S.C. § 1391(b)(1), because, on information and belief, Joseph Bonocore and Phyllis Bonocore live in the District of Idaho.

DEFENDANTS

5. The United States realleges paragraphs 1 through 4.
6. Joseph Bonocore currently lives in the District of Idaho. He is made a party to this suit because he has unpaid federal tax assessments that the United States seeks to reduce to judgment.
7. Phyllis Bonocore currently lives in the District of Idaho. She is made a party to this suit because she has unpaid federal tax assessments that the United States seeks to reduce to judgment.
8. Joseph J. Bonocore and Phyllis A. Bonocore are currently married. They were also married at the time the tax assessments at issue in this case accrued.

TAX LIABILITIES

9. The United States realleges paragraphs 1 through 8.

10. During the 2001 tax year, the Bonocores were California residents. Mr.

Bonocore, the primary breadwinner, was a consultant who made more than \$200,000 in taxable income that year.

11. The taxes for the 2001 tax year are based on the Bonocores' filed joint 2001 return.

12. The taxes for the 2015 tax year are based in part on the Bonocores' filed joint return for that year, and in part on a later examination.

13. On the dates set forth below, a duly authorized delegate of the Secretary of the Treasury made assessments against Joseph Bonocore and Phyllis Bonocore, jointly, as follows:

Type of Tax	Tax Period	Assessment Date	Assessment Amount ¹	Estimated Unpaid Balance as of February 28, 2019 ²
1040	2001	2-23-2009	T \$53,943.00	\$122,813.28
		2-23-2009	P1 \$10,355.00	
		2-23-2009	P2 \$11,506.00	
		2-23-2009	I \$28,914.18	
		4-27-2009	F \$16.00	
		7-31-2017	F \$26.00	
		10-15-2018	F \$54.00	
1040	2015	9-12-2016	T \$3,896.00	\$45,196.89

¹ T—tax assessed; F—fees and collection costs; P1—late return filing penalty, 26 U.S.C. §6651(a)(1); P2—failure to timely pay tax penalty, 26 U.S.C. §6651(a)(2) & (a)(3); P3—penalty for not pre-paying estimated tax; P4—fraud penalty, § 6663; P5—§ 6662 accuracy-related penalty; I—interest assessed, or reduced and removed previous interest credited; F—Fees and collection costs; OT—because of an understatement of taxes by the taxpayers on their return, the IRS believed there was an overpayment, which was transferred to a different of the Bonocores' delinquent tax periods.

² Includes accrued but unassessed interest and penalties to that date. May not include all payments made in the month of February.

		9-12-2016	P3	\$19.00	
		4-15-2016	OT	\$3,320.00	
		6-27-2016	OT	\$500.00	
		11-13-2017	P5	\$6,712.00	
		11-13-2017	T	\$33,559.00	
		11-13-2017	I	\$2,407.76	
		7-30-2018	F	\$26.00	
TOTAL					\$168,010.17

14. Joseph and Phyllis Bonocore initially entered into an installment agreement in or about December, 2009. On November 14, 2016, they defaulted on the installment agreement, and the IRS terminated the agreement.

15. The IRS collection statute for the 2001 liabilities was tolled during at least the 30 days after the installment agreement was terminated. § 6331(k)(2)(D). 26 U.S.C. § 6331(i)(5).

16. The period for collection of the assessments described in paragraph 13, above, has not expired, and this action is not barred by 26 U.S.C. § 6502.

17. Joseph and Phyllis Bonocore failed to pay in full the above tax liabilities despite notice and demand for payment. Pursuant to 26 U.S.C. § 6321, statutory liens arose against all property and rights to property owned by Joseph and Phyllis Bonocore at the time of the assessments.

18. Despite timely notice and demand for payment of the assessments described above, Joseph and Phyllis Bonocore neglected or refused to make payment to the United States, and there remains due and owing on those assessments, together with accrued but unassessed statutory interest and other additions,

1 the amount of \$168,010.17, as of February 28, 2019, plus statutory interest
2 and accruals after that date.

3 **COUNT I: REDUCE FEDERAL TAX AND PENALTY ASSESSMENTS TO JUDGMENT**
4 **AGAINST JOSEPH AND PHYLLIS BONOCORE**

5 19. The United States reasserts the allegations made in paragraphs 1 through
6 18, above.

7 20. On the dates, in the amounts, and for the tax periods set forth in paragraph
8 13 above, a duly authorized delegate of the Secretary of the Treasury made
9 assessments against Defendants Joseph and Phyllis Bonocore, for unpaid
10 federal income taxes, penalties, and interest.

11 21. Despite timely notice and demand for payment of the assessments described
12 above, Joseph and Phyllis Bonocore have neglected, refused, or failed to pay
13 the assessments and there remains due and owing to the United States on
14 those assessments the amount of \$168,010.17, as of February 28, 2019, plus
15 statutory interest and accruals after that date.

16 22. Under 26 U.S.C. § 7402(a), the United States is entitled to a judgment
17 against Joseph and Phyllis Bonocore for the unpaid balance of the assessed
18 amounts described above, plus statutory interest and any other additions
19 accruing to the date of payment.

20 WHEREFORE, the United States prays as follows:

- 21 a. That judgment be entered against defendants Joseph and Phyllis Bonocore
22 for unpaid federal income taxes and penalties for the 2001 and 2015 tax
23

1 years, in the amount of \$168,010.17, as of February 28, 2019, plus statutory
2 interest and accruals after that date.

3 b. That the United States be granted such other relief as the court deems just
4 and proper, including fees and costs as allowed by law.

5 Dated this 11th day of February, 2019.

6 RICHARD E. ZUCKERMAN
7 Principal Deputy Assistant Attorney General

8 /s/ Dylan Cerling
9 DYLAN CERLING
10 Trial Attorney, Tax Division
11 U.S. Department of Justice
12 P.O. Box 683
Washington, D.C. 20044
Telephone: (202) 616-3395 (Cerling)
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13 Of Counsel:
14 BART M. DAVIS
U.S. Attorney, District of Idaho

15 *Attorneys for the United States*
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JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM)

I. (a) PLAINTIFFS
United States of America**DEFENDANTS**
Joseph J. Bonocore, Phyllis A. Bonocore(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)County of Residence of First Listed Defendant Ada County
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

Attorneys (If Known)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Dylan Cerling, Trial Attorney, U.S. Department of Justice, Tax Division,
CTS-W, PO Box 683, Washington, DC 20044, 202-616-3395**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input checked="" type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity)

26 U.S.C. 7402

Brief description of cause

Reduce tax liabilities to judgment**VII. REQUESTED IN COMPLAINT:**
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

168,010.17

CHECK YES only if demanded in complaint.

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions)

JUDGE

DOCKET NUMBER

DATE

02/11/2019

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: federal question actions take precedence over diversity cases.)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

_____ District of _____

Defendant(s)

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____ .

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

____ District of _____

Defendant(s)

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

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 _____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: